

Rule 1.201 Complex Litigation

(a) Complex Litigation Defined. At any time after all defendants have been served, and an appearance has been entered in response to the complaint by each party or a default entered, any party, or the court on its own motion, may move to declare an action complex. However, any party may move to designate an action complex before all defendants have been served subject to a showing to the court why service has not been made on all defendants. The court shall convene a hearing to determine whether the action requires the use of complex litigation procedures and enter an order within 10 days of the conclusion of the hearing.

(1) A “complex action” is one that is likely to involve complicated legal or case management issues and that may require extensive judicial management to expedite the action, keep costs reasonable, or promote judicial efficiency.

(2) In deciding whether an action is complex, the court must consider whether the action is likely to involve:

(A) numerous pretrial motions raising difficult or novel legal issues or legal issues that are inextricably intertwined that will be time-consuming to resolve;

(B) management of a large number of separately represented parties;

(C) coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court;

(D) pretrial management of a large number of witnesses or a substantial amount of documentary evidence;

(E) substantial time required to complete the trial;

(F) management at trial of a large number of experts, witnesses, attorneys, or exhibits;

(G) substantial post-judgment judicial supervision; and

(H) any other analytical factors identified by the court or a party that tend to complicate comparable actions and which are likely to arise in the context of the instant action.

(3) If all of the parties, pro se or through counsel, sign and file with the clerk of the court a written stipulation to the fact that an action is complex and identifying the factors in (2)(A) through (2)(H) above that apply, the court shall enter an order designating the action as

complex without a hearing.

(b) Initial Case Management Report and Conference. The court shall hold an initial case management conference within 60 days from the date of the order declaring the action complex.

(1) At least 20 days prior to the date of the initial case management conference, attorneys for the parties as well as any parties appearing pro se shall confer and prepare a joint statement, which shall be filed with the clerk of the court no later than 14 days before the conference, outlining a discovery plan and stating:

(A) a brief factual statement of the action, which includes the claims and defenses;

(B) a brief statement on the theory of damages by any party seeking affirmative relief;

(C) the likelihood of settlement;

(D) the likelihood of appearance in the action of additional parties and identification of any nonparties to whom any of the parties will seek to allocate fault;

(E) the proposed limits on the time: (i) to join other parties and to amend the pleadings, (ii) to file and hear motions, (iii) to identify any nonparties whose identity is known, or otherwise describe as specifically as practicable any nonparties whose identity is not known, (iv) to disclose expert witnesses, and (v) to complete discovery;

(F) the names of the attorneys responsible for handling the action;

(G) the necessity for a protective order to facilitate discovery;

(H) proposals for the formulation and simplification of issues, including the elimination of frivolous claims or defenses, and the number and timing of motions for summary judgment or partial summary judgment;

(I) the possibility of obtaining admissions of fact and voluntary exchange of documents and electronically stored information, stipulations regarding authenticity of documents, electronically stored information, and the need for advance rulings from the court on admissibility of evidence;

(J) the possibility of obtaining agreements among the parties regarding the extent to which such electronically stored information should be preserved, the form in which such information should be produced, and whether discovery of such information should be conducted in phases

or limited to particular individuals, time periods, or sources;

(K) suggestions on the advisability and timing of referring matters to a magistrate, master, other neutral, or mediation;

(L) a preliminary estimate of the time required for trial;

(M) requested date or dates for conferences before trial, a final pretrial conference, and trial;

(N) a description of pertinent documents and a list of fact witnesses the parties believe to be relevant;

(O) number of experts and fields of expertise; and

(P) any other information that might be helpful to the court in setting further conferences and the trial date.

(2) Lead trial counsel and a client representative shall attend the initial case management conference.

(3) Notwithstanding rule 1.440, at the initial case management conference, the court will set the trial date or dates no sooner than 6 months and no later than 24 months from the date of the conference unless good cause is shown for an earlier or later setting. The trial date or dates shall be on a docket having sufficient time within which to try the action and, when feasible, for a date or dates certain. The trial date shall be set after consultation with counsel and in the presence of all clients or authorized client representatives. The court shall, no later than 2 months prior to the date scheduled for jury selection, arrange for a sufficient number of available jurors. Continuance of the trial of a complex action should rarely be granted and then only upon good cause shown.

(c) The Case Management Order. The case management order shall address each matter set forth under rule 1.200(a) and set the action for a pretrial conference and trial. The case management order also shall specify the following:

(1) Dates by which all parties shall name their expert witnesses and provide the expert information required by rule 1.280(b)(5). If a party has named an expert witness in a field in which any other parties have not identified experts, the other parties may name experts in that field within 30 days thereafter. No additional experts may be named unless good cause is shown.

(2) Not more than 10 days after the date set for naming experts, the parties shall meet and

schedule dates for deposition of experts and all other witnesses not yet deposed. At the time of the meeting each party is responsible for having secured three confirmed dates for its expert witnesses. In the event the parties cannot agree on a discovery deposition schedule, the court, upon motion, shall set the schedule. Any party may file the completed discovery deposition schedule agreed upon or entered by the court. Once filed, the deposition dates in the schedule shall not be altered without consent of all parties or upon order of the court. Failure to comply with the discovery schedule may result in sanctions in accordance with rule 1.380.

(3) Dates by which all parties are to complete all other discovery.

(4) The court shall schedule periodic case management conferences and hearings on lengthy motions at reasonable intervals based on the particular needs of the action. The attorneys for the parties as well as any parties appearing pro se shall confer no later than 15 days prior to each case management conference or hearing. They shall notify the court at least 10 days prior to any case management conference or hearing if the parties stipulate that a case management conference or hearing time is unnecessary. Failure to timely notify the court that a case management conference or hearing time is unnecessary may result in sanctions.

(5) The case management order may include a briefing schedule setting forth a time period within which to file briefs or memoranda, responses, and reply briefs or memoranda, prior to the court considering such matters.

(6) A deadline for conducting alternative dispute resolution.

(d) Final Case Management Conference. The court shall schedule a final case management conference not less than 90 days prior to the date the case is set for trial. At least 10 days prior to the final case management conference the parties shall confer to prepare a case status report, which shall be filed with the clerk of the court either prior to or at the time of the final case management conference. The status report shall contain in separately numbered paragraphs:

(1) A list of all pending motions requiring action by the court and the date those motions are set for hearing.

(2) Any change regarding the estimated trial time.

(3) The names of the attorneys who will try the case.

(4) A list of the names and addresses of all non-expert witnesses (including impeachment and rebuttal witnesses) intended to be called at trial. However, impeachment or rebuttal witnesses

not identified in the case status report may be allowed to testify if the need for their testimony could not have been reasonably foreseen at the time the case status report was prepared.

(5) A list of all exhibits intended to be offered at trial.

(6) Certification that copies of witness and exhibit lists will be filed with the clerk of the court at least 48 hours prior to the date and time of the final case management conference.

(7) A deadline for the filing of amended lists of witnesses and exhibits, which amendments shall be allowed only upon motion and for good cause shown.

(8) Any other matters which could impact the timely and effective trial of the action.